

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

March 1, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 1, 2007, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Don Anderson Vice-Chair; Harold Warner, Jr.; John W. McKay, Jr.; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Don Sherman; Bud Hentzen; Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. Bill Johnson and G. Nelson Van Fleet were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; David Barber, Advanced Plans Manager; Scott Knebel, Principal Planner and Maryann Crockett, Recording Secretary.

1. Election of Chairperson.

MOTION: To defer the election for two weeks.

ALDRICH moved, **MARNELL** seconded the motion, and it carried (12-0).

2. Approval of the February 8 and February 15, 2007 MAPC minutes.

MOTION: To approve the February 8, 2007 and February 15, 2007 MAPC minutes.

HILLMAN moved, **WARNER** seconded the motion, and it carried (12-0).

❖ SUBDIVISION ITEMS

3. Consideration of Subdivision Committee recommendations from the meeting of February 22, 2007

3-1. SUB 2006-100: Final Plat -- WINDING LAKE ESTATES ADDITION, located on the southwest corner of 45th Street North and Hoover Road.

Note: This site is located in the County adjoining Wichita's city limits and annexation is required. The site is currently zoned SF-20, Single-Family Residential and LC, Limited Commercial (Lot 73, Block D). The residential portion of the property will be converted to SF-5, Single-Family Residential upon annexation.

The applicant intends to submit the final tracing with the revised plat name of Edge Water Addition.

STAFF COMMENTS:

- A. Prior to this plat being scheduled for City Council review, annexation of the property will need to be completed. Upon annexation, the residential portion of the property will be zoned SF-5, Single-Family Residential and allow for the lot sizes being platted.
- B. The applicant shall guarantee the extension of sanitary sewer (main and lateral) and City water

(main and lateral) to serve the lots being platted.

- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. Per **City Engineering**, the drainage plan is approved. Off-site drainage easements and off-site sewer easements are needed.
- E. Per the recommendation of **Sedgwick County Engineering and City Engineering**, the Subdivision Committee approved the paving of 45th St. North.
- F. The platlor's text shall include the language that the owners of the reserves shall bear the cost of any repair or replacement of improvements within the Reserves and resulting from street construction, repair, or maintenance.
- G. Boynton Ct. near Lot 83 Block A appears to be 64' wide.
- H. The Southern Star Pipeline easement needs to be located and setbacks denoted, if any.
- I. A bearing is needed on the northeast line of Lot 68, Block D.
- J. Dimensions are needed on the west line of reserve E.
- K. As drainage will be directed onto K-96, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- L. Prior to City Council review, the applicant should meet with **City Engineering** to discuss an agreement regarding construction of an interchange on K-96 at Hoover.
- M. The plat denotes complete access control along Hoover except for one street opening. Complete access control has been platted along 45th St. North except for one street opening and one access opening for Lot 68, Block D. Per **Traffic Engineering**, access controls have been approved.
- N. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- O. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- P. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- Q. Since Reserve I includes a swimming pool, a site plan shall be submitted with the final plat, for review and approval by the Planning Director. The site plan shall include the information indicated in the Subdivision Regulations. The design for the pool must be submitted to **Environmental Services** for review prior to issuing a building permit for the pool.
- R. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- S. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and

owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- T. Per **GIS**, Ridgeport and Ridgeport Ct need to be replaced with Ridge Port and Ridge Port Ct. Lantana and Boynton need to be replaced with new names.
- U. **County Engineering** has requested a meeting with the applicant to discuss potential off-site right-of-way along 45th St. North adjoining Lots 9, 10, and 11, Block A.
- V. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- W. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- X. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- Y. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Z. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- AA. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- BB. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- CC. Perimeter closure computations shall be submitted with the final plat tracing.
- DD. **Westar Energy** has required additional easements.
- EE. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

NEIL STRAHL, Planning staff presented the staff report.

PHIL MEYER, BAUGHMAN COMPANY, agent for the applicant, said he was there to appeal the paving requirement and offer an alternative suggestion for paving. He commented that Jay Russell was the

developer and that they planned on annexing the area into the City of Wichita. He said they proposed to pave 45th Street from Ridge Road, east to the west entrance to the subdivision. He said they agreed with Planning Staff that paving 45th Street from Hoover ½ mile west wasn't that big of a benefit for the overall project. He said they feel most of the traffic will come into the area off of Ridge Road. He concluded by saying that the developer was volunteering to pave 45th Street from Ridge Road with two-lane asphalt matt pavement to the entrance to the subdivision. He said this would serve their subdivision as well as other residents along 45th Street.

Responding to questions concerning development of a subdivision to the north and development on both sides of 45th Street, **MEYER** commented that there have been discussions with City staff concerning a possible interchange at Hoover Road. He said the developer planned on starting the subdivision on the west and moving to the east with eventual access on to Hoover Road. He clarified that none of 45th Street was paved at this time.

JIM WEBER, COUNTY PUBLIC WORKS DIRECTOR, commented that there were some differences between City and County policies concerning road paving. He said under the City's policy, maintenance of 45th Street would be left to the Township. He said under the County's "Urban Fringe Development Policy" they would make sure that 45th Street eventually got paved. He said there are approximately 400 vehicles along Hoover Road each day, compared to approximately 4,300 along Ridge Road. He added that widening of Ridge Road was a project scheduled for 2009. He said they are okay with what **MEYER** was suggesting; working with the City on additional paving as the area is developed. He said they would like to see the City annex 45th Street and take responsibility for it, but he realized the MAPC didn't have the ability to make that happen. He concluded by saying that this was a good solution to the problem and that they were in agreement with the suggestion.

MOTION: To approve subject to staff recommendations and modification of the paving requirement from Ridge Road to the west entrance to the subdivision.

ALDRICH moved, **HENTZEN** seconded the motion, and it carried (12-0).

3-2. SUB 2006-111: Revised One-Step Final Plat -- STONEBRIDGE 2ND ADDITION, located west of 159th Street East and on the north side of 13th Street North.

NOTE: This is property located in the County within three miles of the City of Wichita. It is in an area designated as "2030 Urban Growth Area" by the Wichita-Sedgwick County Comprehensive Plan. This is a replat of the Stonebridge Addition. The plat denotes increased lot widths and consists of 20 fewer lots. The street layout has not changed.

This revised final plat includes revised lot widths, which involve a minor shift of the street layout, resulting in 11 fewer lots.

- A. The applicant shall guarantee the extension of sanitary sewer (mains and lateral) and City water (mains and lateral) to serve the lots being platted. An outside-the-city water agreement shall be provided. Off-site sewer easements will also be needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. As per **County Engineering**, the drainage plan is approved. **City Engineering** requests a copy of the drainage plan.
- D. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- E. Since this is a replat of a previous Addition involved with the ownership and maintenance of reserves

for that Addition, but not being replatted by this Addition, the above covenants and/or other legal documents shall be provided which provides for this Addition to continue to share in the ownership and maintenance responsibilities of any such previously platted reserves.

- F. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities, which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Westar Energy has requested additional easements.
- Q. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **SHERMAN** seconded the motion, and it carried (12-0).

3-3. SUB 2006-112: Revised One-Step Final Plat -- EARHART ELEMENTARY SCHOOL ADDITION,
located south of 45th Street North and on the west side of Arkansas.

NOTE: This is a replat of a portion of the Edwards Gardens Addition, which includes the vacation of Mascot Avenue.

This revised final plat also includes the vacation of 43rd St. North.

STAFF COMMENTS:

- A. Water service is available to serve the lot. The applicant has petitioned for the extension of sewer service (main and lateral). The applicant shall contact Environmental Services regarding abatement and abandonment of the on-site sewage system at the time of site development.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. As per City Engineering, the drainage plan is approved. An off-site drainage easement will be needed.
- D. The plat proposes one access opening to Arkansas. As per Traffic Engineering, the opening is approved.
- E. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- F. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. Due to the vacation of 43rd St North and Mascot Ave, the remaining lots in Edwards Garden Addition will have no access to a public street. It is recommended that the Applicant submit a restrictive covenant tying the lots together.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are

applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **SHERMAN** seconded the motion, and it carried (12-0).

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- 3-4. SUB 2007-13: One-Step Final Plat -- WICHITA COUNTRY CLUB SECOND ADDITION,** located on the south side of 13th Street and east of Rock Road.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. Municipal services are available to serve the site. A 20' utility easement has been platted for a public main to facilitate an existing private water line. City of Wichita Water Utilities Department requires that the main be "looped" by being tied in to the water main on Clubside Ct to the east. The easement will need to be extended or moved east.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. As per City Engineering, the drainage plan is approved.
- D. The plat proposes one opening along 13th St. North for an existing driveway. The remainder of the frontage will be in accordance with access management standards. Traffic Engineering has

approved the access controls.

- E. As per Traffic Engineering, a 10-foot contingent right-of-way is needed along 13th Street North. On the final plat tracing, the contingent dedication of right-of-way needs to be referenced in the plat's text as follows, "The contingent street dedication shall become effective in the event that the City determines a need for the right-of-way for any street-related purposes."
- F. With the approval of this plat, a waiver of the lot depth to width ratio of the Subdivision Regulations has been approved. The Subdivision Regulations state that the maximum depth of all residential lots shall not exceed 2.5 times the width.
- G. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- H. GIS has requested that "13th St. N" be labeled correctly.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **SHERMAN** seconded the motion, and it carried (12-0).

3-5. SUB 2007-09: One-Step Final Plat -- FANTER'S 2ND ADDITION, located on the south side of 77th Street North and west of 39th Street West.

NOTE: This site is located in the County within three miles of Wichita's boundary. It is located in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan. It is located in the Valley Center Area of Influence.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact County Code Enforcement to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval. The applicant needs to locate septic system and water wells and have inspection by Sedgwick County Code Enforcement. The discharge from the heat pump system needs to be addressed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. The City of Valley Center requests that a 20' utility easement be placed along the east, south and west boundary of the property.
- D. As per County Engineering, a drainage plan is approved. An elevation datum on the plat is needed.
- E. The plat denotes one opening along 77th St. North. The applicant has informed staff one opening will be proposed along the east 110 feet of the property. County Engineering has required a guarantee for the removal of the east drive.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. Sedgwick County Fire Department advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- H. The applicant is reminded that this site is located within three miles of the City Limits of Wichita and will be heard by City Council. Therefore, the City Council signature block needs to be included on the final plat.
- I. On the final plat, the MAPC signature block needs to reference the new Chair.
- J. The signature line for the County Commissioners Chairman needs to reference "David M. Unruh".
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are

applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendations.

ALDRICH moved, **SHERMAN** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

4. VAC 2007-01: Request to vacate a portion of platted setback and a portion of platted access control.

OWNER: Lee Builders Inc., c/o Steven F. Lee

APPLICANT: Ruggles & Bohm c/o Kenneth Lee

LEGAL DESCRIPTION: The west 40-feet of the east 80-feet of the platted complete access control located along the south lot line of Lot 6, Block 3, Stone Post Farm Addition, Wichita, Sedgwick County, Kansas.

&

The west 20-feet of the platted 60-foot street side yard setback located along the east lot line of Lot 6, Block 3, Stone Post Farm Addition, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located south of 53rd Street North, on the west side of 159th Street East (BoCC District #1, unincorporated Sedgwick County)

REASON FOR REQUEST: House built into platted setback.

CURRENT ZONING: The site and the abutting western, southern, & northern properties are zoned "RR" Rural Residential. The adjacent eastern properties, across 159th Street East, are located in Butler County.

A single-family residence was built approximately 18.40-feet into the platted 60-foot street side (159th Street East side) yard setback. Subsequently the driveway appears to have been located in a straight line from the residence's attached garage to Evening Shade Street, a platted local street. The applicant has stated that the location of a drainage structure also necessitates the location of the driveway, which is now located within the platted complete access control (east 150-feet) along the lot's Evening Street side. 159th Street East at this location is a Payne Township Road and classified as a section line road. There is complete access control along the site's 159th Street East side. Per the Unified Zoning Code (UZC), Art.III, Sec. III, E-3, in the unincorporated area of the County no building shall be closer to the centerline of a section line road than 85-feet. At this location 159th has a 60-foot half-street right-of-way. The applicant is requesting the west 20-feet of the platted 60-foot setback to be vacated. The vacation would result in a total of 100-feet spacing between the center of the 159th ROW and the house: well within the 85-foot minimum spacing. The County Public Works Engineer has approved the relocated driveway. Butler County Rural Electric has no utilities that will be compromised by the vacation request. The Stone Post Farm Addition was recorded with the Register of Deeds March 10, 2004.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate a portion of the platted complete access control and portion of platted setback, with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time February 8, 2007 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted complete access control and the portion of platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of a portion of the platted complete access control and portion of platted setback described in the petition should be approved with conditions;

- (1) Vacate that portion of platted access control and setback has described.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including any driveways from private property onto public ROW.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Vacate that portion of platted access control and setback has described.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense.
- (3) All improvements shall be according to County Standards and at the applicant's expense, including any driveways from private property onto public ROW.
- (4) Provide Public Works with a guarantee to ensure that those improvements will be made. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to staff recommendations.

MITCHELL moved, **ALDRICH** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS**

5. **Case No.: ZON2007-1/CON2007-2** – Steve Simon (owner) / C&D Recyclers of Kansas, c/o Doug Sommers Request Zone change from “SF-20” Single-family Residential to “LI” Limited Industrial and a Conditional Use for a construction and demolition landfill on property described as;

The West 660 feet of the Southeast Quarter of Section 26, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas. Generally located On the west side of West Street and on the north side of 37th Street North.

BACKGROUND: The applicant is requesting “LI” Limited Industrial zoning and a Conditional Use to allow for the future expansion of an existing construction and demolition waste landfill. The proposed unplatted 36-acre site is located in the County, zoned “SF-20” Single-family Residential and is currently an agricultural field. The proposed site abuts the west side of the above-mentioned 35.98-acre C&D Recyclers of Kansas construction and demolition waste landfill. The existing landfill was approved by the MAPC and the BoCC per ZON2001-68 (“SF-20” to “LI”) and CON2001-63.

The site plan submitted shows some dimension control, its general configuration, the location of three (3) soil bores/ ground water monitoring wells, the unidentified solid waste transfer station, some type of integration into the existing landfill and announces that it will be an expansion of the applicant's existing construction and demolition landfill. It is not clear where access to the proposed site is located, although it appears to be off of 37th. The proposed site is approximately 2,220-feet west of 37th's intersection with West Street. 37th at this location is a dirt, section line road maintained by Park Township. If the applicant proposes to use 37th as it appears to be indicated on the site plan, the applicant will be required to pave 37th up the entrance per the standards recommended by the County Engineer. The site plan shows no setbacks and no screening or landscape buffers. A revised site will be required. The K-96 – West Street interchange provides quick access from the site to the greater Wichita area.

The County Solid Waste Management Committee approved the proposed site for applicant's expansion of the existing construction and demolition landfill at a recent meeting. The meeting established that the proposed site for the expansion will: not be operating until the existing landfill shuts down, which is in approximately 10-years, the proposed expansion site will operate 15-25 years, be built up to a height of up to 70-feet in a pyramid configuration, take in approximately 100-300 tons of material per day, and

recycle up to 60% or more of materials received. It was also established that the proposed site will have crews sort through the material and divert recyclable and inappropriate material from the proposed site to more appropriate facilities, such as loads of concrete or asphalt being sent to an asphalt plant east of the site, across West Street or sending municipal solid waste to the abutting transfer station. Operations of the proposed expansion site will essentially mirror the existing construction and demolition landfill, as established by CON2001-63.

The proposed site does not need approval for a "transfer station" as the sorting and diverting of inappropriate material from this site is considered to be incidental to the primary C&D landfill operation. The applicant's are not advertising this as an appropriate place to deliver all types of waste, nor do they encourage or want inappropriate materials to be delivered to the site. In order to minimize the number of errant loads, the applicant works with contractors, and others who are likely to be regular customers, to ensure that loads are properly directed to the appropriate disposal facility as they leave the job site.

The proposed site's north side abuts K-96 highway, which separates it from the City' closed solid waste landfill, its currently operating construction and demolition landfill(s) and its asbestos mono-landfill, all zoned "SF-5" Single-family Residential. The City landfill is the highest point in Sedgwick County and is proposed to be used as a public park when all of its facilities are closed. All of the properties west of the proposed site (on the north side of 37th) to Hoover Road, are in the County, zoned "SF-20" (with a later noted exception) and are being used as agricultural fields and a farmstead, built 1900, located approximately 1/3-mile from the site. All of the properties located south of the proposed site, across 37th, are in the County, zoned "SF-20" (with a later noted exception) and are being used as a spent sand pit, an active sand pit and an airfield. There is "LC" Limited Commercial zoning at the Hoover and 37th intersection, but it is developed as agricultural fields, a single-family residence (1999) and a sandpit. Properties located to the east of the proposed site include C&D's construction and demolition landfill, a active sand pit, an asphalt processing plant/rock crusher (zoned "LI", "LC" and "GI" General Industrial) and "SF-20 and "LC" zoned farm ground. All of these properties are located in the County.

As previously stated the proposed site has been reviewed by Sedgwick County's Solid Waste Management Committee and has received their approval. Licensing by the County is required as is conformance with the County's C & D landfill design and operation requirements. Pertinent site design requirements include:

- A. No operations shall be located closer than 500 feet of an occupied dwelling, school, or hospital that was occupied on the date when the owner first applied for a permit, unless the owner of such dwelling, school or hospital consents in writing. (Nearest occupied residence is approximately 1/3-mile away)
- B. Newly permitted C&D facilities shall maintain a minimum 150-foot buffer from the edge of the C&D landfill's property line. (As shown on the site plan it does not comply with these design requirements along the west, north and south sides; no setbacks are given. The site plan will need to be revised in the event the County Commission does not grant a reduction in the size of buffer required.)
- C. Surface water drainage and control systems shall divert surface water away from areas where waste is present or from operational areas.
- D. Discharge of pollutants is prohibited.
- E. C&D facilities shall be reasonably screened from adjacent roads, streets, and commercial or residential properties except at points of ingress and egress, to a minimum height of 8 feet by the use of berms, walls, fences or plantings. (No landscaping is shown. Unless a waiver is obtained, or the perimeter fill area is to act as the required screen, the site plan will need to be revised.)
- F. Landscaping shall be maintained in proper order.
- G. Facility property and property within one-half mile from the facility shall be kept reasonably free of debris, litter or vectors resulting from the C&D facility. (There have been complaints about blowing debris from the existing construction and demolition landfill; without a recommended landscape buffer debris from the proposed site is a potential issue.)
- H. Access roads to the facility shall be all weather and negotiable at all times. Load limits on bridges and access roads shall be sufficient to support traffic generated by the facility. (Access to the proposed site should be from the existing landfill, unless 37th, a dirt section line road, maintained by Park Township is paved to County standards to an access point off it onto the proposed site.)

Location restrictions include:

- A. C&D facilities shall not be located within the 100-year floodplain unless protected by flood control levees. (Site appears to be out of 100-year flood plain)
- B. C&D facilities will not cause significant degradation of wetlands. (Applicant must provide a letter from the Corps of Engineers stating that this is not a wetland area.)
- C. C&D facilities will not result in the destruction of critical habitat of endangered or threatened species nor contribute to the taking of same. (No evidence has been presented which would suggest that this is an issue.)
- D. The vertical separation between the lowest point of the lowest cell and the predicted maximum water table elevation shall be sufficient to maintain a five foot vertical distance between deposited material and the water table elevation.
- E. No permit for a C&D facility shall be issued on or after the effective date of this resolution if such area is located within 1 mile of an intake point for any public water supply system. The owner may petition the County Commissioners for an exception based upon proof of protection of the public water supply. (Staff is unaware of any public wells within a mile of this location.)

Given this site's proximity to K-96 Highway and the massive landform that Brooks landfill already creates, it is critical to evaluate this request with respect to the landform this project will ultimately create – a 70 foot high mound – adjacent to Brooks and K-96 Highway. K-96 is a true “gateway” to and from northwest Wichita. The final grades on the site should be “less engineered” looking and more sculptural in appearance. There should also be dense evergreen tree plantings along the perimeter of the proposed site within the required setback, in place prior to the facility beginning operations.

CASE HISTORY: The site is an unplatted agricultural field.

ADJACENT ZONING AND LAND USE:

NORTH: “SF-5”	K-96 Highway, former Brooks Landfill
SOUTH: “SF-20” “LC”	Sand pits
EAST: ““LI”	C&D Landfill, solid waste transfer station
WEST: “SF-20”	Agricultural field, single-family residence

PUBLIC SERVICES: West Street is a paved two-lane arterial roadway. County Public Works indicates the paving is thicker than normal due in part to the higher than usual volume of truck traffic. 37th Street North is a dirt section line road, maintained by Park Township. An eastern portion of 37th is paved to the entrance of the solid waste transfer station and has a continuous right-turn lane from West Street to the entrance of the transfer station. It is anticipated that twenty-five to thirty trips per day are to be generated by this facility. No public sewer or water services exist in this general area.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” depicts this site as appropriate for “major utility/transportation” uses. This category of uses includes airports, landing strips, landfills, waste transfer stations, water treatment and sanitary sewer plant facilities. Location guidelines contained in the Comprehensive Plan indicate that these uses should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. The plan does not have location guidelines for C&D landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county.

RECOMMENDATION: This area is an established location for solid waste and construction and demolition landfills and similar types of activities, such as solid waste transfer stations, an asphalt processing plant and rock crusher. These are essential services to the City and the area. The addition of another landfill to the area probably adds to the likelihood that future redevelopment of the area is doubtful, unless it would be for some type of Public Park of limited use. However any site used for a landfill would have the same redevelopment issues attached to it, thus keeping such uses clustered together is probably the best course of action. The proposed site is out of any flood plains and is just beyond a ½-mile from the Arkansas River. Its proximity to K-96 is to its advantage, but presents a challenge in that it will project a negative visual impact on regional traffic entering and leaving the City.

Although the proposed site is outside the K-96 Economic Development Plan, which begins at Maize Road and K-96, the negative visual impact must be addressed through landscaping, thus partially obscuring the site and catching and holding blowing debris from the site. Based upon information available prior to the public hearings, planning staff recommends that the request for "LI" Limited Industrial zoning be APPROVED, and the Conditional Use to permit a construction and demolition landfill be APPROVED,

The Conditional Use is subject to the following conditions:

- A. Demolition and construction solid waste resulting from the construction, remodeling, repair, repair and demolition of structures, roads, sidewalks and utilities as further defined in K.S.A. 65-3402(u) shall be the only landfill material permitted. Household solid waste, hazardous or toxic wastes, as defined by K.S.A. 65-3430 et. seq. shall not be permitted for disposal at this site.
- B. The landfill operation shall obtain all applicable permits or licenses. Operations shall proceed in accordance with all conditions established by the Kansas Department of Health and Environment (KDHE), Wichita-Sedgwick County Health Department, FEMA, the Corps of Engineers, the Department of Wildlife and Parks or any other agency having jurisdiction or oversight authority for the activities conducted on the application area.
- C. A landfill operator shall be on the site during all hours of operations for the purpose of screening incoming loads for authorization, inventory of the type, size and quantity of loads, and direction of loads to the appropriate cells. Access to the subject property shall be prohibited except during the hours of operation.
- D. The delivery of construction and demolition waste to the site shall be only by way of West Street to 37th Street and west to the existing entrance drive of the applicant's existing construction and demolition landfill. If approved by the County Engineer entrance to the site off of 37th Street North from West Street will require the applicant to pave 37th per the standards recommended by the County Engineer from West Street to an approved entrance off of 37th Street North, at the applicant/owners expense.
- E. A minimum 6-foot high fence shall be installed around the perimeter of the site to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches. The fence shall be installed prior to the beginning of filling operations.
- F. Upon written notice of any violation by the appropriate zoning administrator or any agency authorized to permit, review or evaluate operations, operations shall cease and the violation shall be corrected within 48 hours.
- G. A detailed grading/drainage plan shall be submitted to the Sedgwick Department of Public Works and the Wichita Parks Director for review and approval prior to commencement of operations. As part of that review, the Department may require that easements be dedicated for drainage purposes. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading and drainage plan, and with the "Site Plan". Landfill operations shall be conducted so as to minimize the area that could blow. In order to minimize the potential for blowing material, a maximum of 3 acres at any one time may be utilized as fill area. Prior to the opening of any new area, the previous area shall be graded and seeded with at least 18 inches of clean cover material. All fill, work or drive areas shall be maintained in a manner that minimizes blowing dust or fugitive material.
- H. Material is to be piled no higher than 70 feet. Filling shall be phased so as to create an initial "slope" face along K-96 Highway in order to create a screen for later filling activity.
- I. A landscape plan shall be submitted for review and approval by the Director of Planning and the Wichita Parks Director. All plant materials shall be maintained in good condition and shall be replaced as necessary and immediately within the context of the growing season. Evergreens, a minimum of 5-feet in height shall be installed between the boundaries of the Conditional Use and the right-of-way lines along K-96, 37th Street North and the west side of the site, at a rate of at least one

tree per 15-feet along the K-96 side and one tree per 20-feet along the 37th and west side. The landscaping is to be installed within one year of publication of the resolution making this rezoning effective.

- J. Right-of-way dedications commensurate with those required by the Subdivision regulations shall be required if existing rights-of-way are substandard.
- K. Provide a revised site plan for review and approval.
- L. The C&D landfill shall developed and operated be in compliance with all conditions of approval or this Conditional Use, including a revised site plan submitted for review and approval within 60 days, or it shall be considered null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All nearby surrounding properties are mostly in the County, zoned "GI", "LI", "LC", "SF-20", and "SF-5", with numerous Conditional Uses permitting sand extraction, an asphalt plant, construction and demolition landfills and a solid waste transfer station. There is also a closed solid waste landfill, Brooks, in the immediate area. The character of the area is industrial.
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "SF-20." The property is less likely to be developed as zoned given its proximity to the various industrial uses already located in close proximity to the application area, and the low lying topography created by the sand extraction operations conducted on this site in the late 1960's.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: If properly designed and managed, a construction and demolition landfill in this location should not detrimentally affect nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Construction and demolition landfills are needed to handle the community's demolition waste needs. Expansion of the existing site at this location keeps this use clustered with other construction and demolition sites, which are located across K-96 from proposed site, rather than introducing the use to an area that currently has no other such uses. Redevelopment of such sites is problematic at best, with its use probably being limited to some type of park, which it will have very narrow types of uses; keeping them together is perhaps the best direction to take. The expansion of the second significant landform across the road from Brooks Landfill could negatively impact the "gateway" to and from northwest Wichita if the site is not managed and finished in a sensitive manner. A filling scheme that creates a berm along K-96, which can screen later filling activity, landscaping along road frontages and adequate setbacks can mitigate impacts on the public. These mitigating improvements can be accomplished with minimal cost or inconvenience to the applicant
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "major utility/transportation" uses. Location guidelines contained in the Comprehensive Plan indicate that industrial uses should be located near support services and be provided with good access to major arterials and should be extensions of existing industrial uses. The plan does not have location guidelines for construction and demolition landfills. However, plan objectives recognize the need to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of construction debris generated within the county.
6. Impact of the proposed development on community facilities: Approval of the request would provide additional construction and demolition landfill space necessary to meet anticipated needs. West Street to the site are already constructed to meet truck traffic. If 37th Street is to be used it will need to be paved as recommended by the County Engineer. This type of use has minimal sewer and water needs, which can be met without the presence of public services.

BILL LONGNECKER, Planning Staff presented the staff report.

Responding to a question from **ALDRICH**, **LONGNECKER** commented that the nearest neighbor was approximately ¼ mile away from the site.

GISICK asked about hours of operation?

DOUG SOMMERS, GENERAL MANAGER, C&D RECYCLERS OF KANSAS, 4250 W. 37th Street, North, said the hours of operation were 7:00 a.m. - 5:00 p.m. Monday-Friday and 7:00 a.m. - Noon on Saturdays, although because of this spring's hail storm they had been operating until 2:00 p.m. on Saturdays. He commented that they are a construction and demolition landfill and recycling center. He said they recycle wood, metal, sheet rock and those types of things. He said this was an expansion of their existing landfill facility.

HENTZEN asked if they were in agreement with staff comments?

SOMMERS responded yes, that they would continue using the current entrance scales, septic tank and other facilities where they are currently located because it would be cost prohibitive to move those amenities to the new property.

DUNLAP asked for clarification of the terminology "expansion of existing site?"

SOMMERS commented that once the current site is completed, they will move over to the new property.

DUNLAP clarified that one facility would be open at one time.

SOMMERS said that was correct. He added that they have a 70-foot height restriction and that provided they receive their permit from the Kansas Department of Health and Environment (KDHE), they will begin work on the new property next year. He said they would complete fencing, dirt work and landscaping, but that actual placement of demolition debris would not begin until they were full at the current site.

Responding to a question from **BISHOP** concerning irrigation of the evergreen trees, **SOMMERS** explained that they have a well on site and that there will be no problem with watering the trees.

MOTION: To approve subject to staff recommendation.

HILLMAN moved, **SHERMAN** seconded the motion, and it carried (12-0).

HENTZEN requested that in the future, the pages of the Staff Report be numbered.

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6. **Case No.: ZON2007-2** – Owner/Rodney Steven Request Zone change from "LI" Limited Industrial to "SF-5" Single-family Residential to construct a residence on property described as;

Lot 1, Block 1, Except the South 38 feet thereof, Mere Ridge Addition, Sedgwick County, Kansas. Generally located East of Ridge Road and south of 29th Street North (2636 North Ridge).

BACKGROUND: The applicant is requesting that the 1.8 acre site currently zoned "LI" Limited Industrial be rezoned to "SF-5" Single Family Residential. The site is located east of the intersection of N. Ridge Road and W. Reflection Road, and is part of the Mere Ridge Addition plat. The Mere Ridge Addition was approved by the MAPC in 1988. The remainder of the Mere Ridge Addition is currently zoned "SF-5" Single Family Residential or "LI" Limited Industrial. The subject property is vacant.

The surrounding area consists of urban residential development, with a covenant community directly across Ridge Road, just west of the subject site. The site is located midway between 21st Street North

and 29th Street North on Ridge Road. The area west of Ridge Road (and west of the site) is the Reflection Ridge community, zoned "SF-5" Single Family Residential, north of the site is "LI" Limited Industrial zoned vacant land, south of the site is "SF-5" Single Family Residential zoned land developed with single family residences and east of the site is "LI" Limited Industrial zoned property primarily occupied by a lake. The applicant is filing this request for a "SF-5" Single Family Residential rezone for the proposed development of a single-family residence.

CASE HISTORY: The Mere Ridge Addition was recorded with the Register of Deeds in 1988.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI" Limited Industrial	Open, Lake
EAST:	"LI" Limited Industrial	Open, Lake
SOUTH:	"SF-5" Single Family Residential	Residences
WEST:	"SF-5" Single-Family Residential	Golf Course, Residences

PUBLIC SERVICES: The site has direct access off Ridge Road. Currently Ridge Road is a four-lane arterial at this location, with traffic counts 14,974 ATD at the intersection of Ridge Road and West 29th Street North and 21,984 ATD at the intersection of Ridge Road and West 21st Street North. Access points and other traffic related issues were determined during the platting process of the Mere Ridge Addition. Water and sewer service will be extended to the site from the existing lines that run along Ridge Road.

CONFORMANCE TO PLANS/POLICIES: According to the 2030 Wichita Functional Land Use Guide of the *1999 Update to the Comprehensive Plan*, this area is projected for Employment/Industry Center. A "SF-5" zoning at this location fits the existing character of the neighborhood better than an industrial use. There are residential uses west, south and southeast and southwest of the subject site. The down zoning request conforms to the surrounding property usage for the neighborhood as "low density residential."

RECOMMENDATION: Based upon the information available prior to the public hearing, staff recommends the request be APPROVED. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The land west, south and southwest of the subject property is zoned "SF-5" Single-Family Residential. However the area farther south and southeast of the subject site is in transition to urban scale single-family residential development, north and east of the 21st Street – Ridge Road intersection. The approximately 90-acre Mere Ridge Addition, surrounding a 57-acre lake, where the subject site is located, was approved by the MAPC in 1988. There are three subdivisions near the subject site. To the west, there is a low-density "SF-5" zoned residential development, to the southeast is a high-density "MF-18" zoned residential development and to the south is a moderate-density "TF-3" residential development. The area east of the subject site is zoned "LI", represents the western boundary of a large industrial development that is Ritchie Corporation's quarrying operation.
2. The suitability of the subject property for the uses to which it has been restricted: The site is approved for "LI" use and could be developed accordingly, however the site had been vacant prior to its platting as the Mere Ridge Addition in 1988 and is currently vacant. The approval by the MAPC of the Mere Ridge Addition, where the site is located, makes its use as industrial property extremely doubtful.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Low density residential development is the best use for this site/area and the zoning change from "LI" to "SF-5" on the site will most likely begin a pattern of "SF-5" zone changes, eliminating areas of "LI" zoning on the east side of Ridge Road due to the quarrying operation. Once the area is used up due to the quarrying operation, this area can expect to be redeveloped with single-family residences surrounding the existing lake.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: According to the 2030 Wichita Functional Land Use Guide, this area is projected for Employment/Industry Center. A "SF-5" zoning at this location fits the existing character of the neighborhood better than an industrial use. There are residential uses west, south and southeast

and southwest of the subject site. The down zoning request conforms to the surrounding property usage for the neighborhood as “low density residential.”

5. Impact of the proposed development on community facilities: The proposed down zoning of the 1.8-acre site to “SF-5,” when considered as part of the low density single-family Mere Ridge Addition, will have a limited effect on traffic. Water and sewer service will be extended to the site from the water and sewer lines running along Ridge Road.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

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7. **Case No.: CON2007-3** –Bethel Life Center Assembly of God Church Jess Myers, Attorney at Law Request Conditional use permit for a Day Care, General in “SF-5” Single-family Residential zoning on property described as;

Beginning at the Southeast corner of Lot 1, Block 1, Bethel Assembly Addition to Sedgwick County, Kansas; thence West 1,530.0 feet on said property; thence North 775.0 feet; thence East 710.00 feet; thence South 690.0 feet; thence East 820.0 feet; thence South 85.0 feet to the point of beginning, said parcel of land containing 14.23 acres more or less. Generally located South of I-235 and west of Meridian (3777 South Meridian).

BACKGROUND: The applicant, Bethel Life Center Assembly of God Church, is requesting consideration and recommendation for a Conditional Use to allow a Day Care, General, on property zoned “SF-5” Single Family Residential. The property (14.23 acres) is described as Lot 1, Block 1, Bethel Assembly Addition located south of the I-235 – S. Meridian Avenue intersection. South Meridian Avenue fronts the east side of the property, West Side Free Baptist Church property fronts the west side, I-235 fronts the north side and a “SF-20” (County) Single Family Residential zone district fronts the south side. The Unified Zoning Code requires a Conditional Use when a Day Care, General, is located in “SF-5” Single Family Residential zoning.

The applicant proposes to provide day care for over 10 children in an existing structure during the week. The applicant currently has an existing playground area southwest of the building. This applicant is proposing to develop a 1,750 square foot playground area to provide an outside play area for the children just north of the existing church structure for building access to the proposed playground. The applicant has provided Staff with a Site Plan that conforms to the development standards of the City. In addition to the day care, the site also contains the church’s sanctuary and other associated church facilities, including parking. Access to the site is provided off of S. Meridian Avenue.

CASE HISTORY: The property was platted as Bethel Assembly Addition in 1981.

ADJACENT ZONING AND LAND USE:

NORTH:	I-235	Interstate Highway
EAST:	“SF-5” Single Family Residential	Church
SOUTH:	“SF-20” Single Family Residential	Residential
WEST:	“GO” General Office	Union Hall

PUBLIC SERVICES: S. Meridian Avenue is a paved four-lane arterial road. There are 10,906 average trips per day recorded near this along this section of S. Meridian Avenue. Municipal water and sewer services currently exist available at this site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan identifies this property as major institutional. The current zoning of the site is “SF-5” Single Family Residential, a low residential density. Day Care, General is a conditional use for this residential designation, per the regulations detailed in the WSC Unified Zoning Code.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The Day Care Center shall comply with all applicable regulations.
2. Outdoor play shall be limited to the hours of 7:30 AM to 6:30 PM if located within 100 feet of a lot containing a dwelling unit.
3. Shared parking may be provided for a provision for parking spaces as outlined in Section IV-A.4 when the day care is located within an existing church or place of worship, however, the day care shall provide convenient off-street loading facilities as required in Section IV-A.14.
4. All outdoor lighting shall employ cut-off luminaries to minimize light trespass and glare, and shall be mounted at a height not to exceed $\frac{1}{2}$ the distance from the neighboring lot, unless evidence is provided to the satisfaction of the Planning Director that the light source will be aimed or shielded such that the light source is not visible from the neighboring lot.
5. Any violation of the conditions of approval shall declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area surrounding the site is mostly zoned residential, with residential zones to the south, west and north, across the highway and a General Office zone on the east side of the property. The Day Care is a Conditional Use in this zoning, and the proposed playground which will be connected to the existing church is a permitted use in "SF-5" Single Family Residential zoning.
2. The suitability of the subject property for the uses to which it has been restricted: The applicant's proposal for a Day Care is appropriate, if the applicant can meet Staff recommendations.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed conditional use is for a daycare center. If the applicant can meet Staff recommendations, the affects on nearby property will be minimal.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The plan indicates this site is appropriate for low-density residential and institutional uses. Given the land uses, zoning and roadways adjoining this site, the request is in conformance with adopted location guidelines for residential institutional uses.
5. Impact of the proposed development on community facilities: The use currently exists, so the impact will not be beyond the capacity of the existing community facilities.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

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8. **Case No. CUP2007-2** – American Luxury Cinemas Inc., c/o Bill Warren (owner); Spangenberg Phillips, c/o Brad Teeter (agent) Request DP-177 Sterling Farms Commercial Community Unit Plan Amendment #2 to increase height from 35 to 47 feet for a theater addition, and decrease parking requirement from 1:3 to 1:3.3 on Parcel 2 on property described as;

All of Lot 2 and 3, and part of Lot 4, Block 6, Sterling Farms Addition and Lots 1 and 2, Sterling Farms 5th Addition to Wichita, Sedgwick County, Kansas General Location North of 21st Street North and west of Tyler Road (9150 West 21st Street North).

BACKGROUND: The applicant requests Amendment #2 to increase height for a theater addition from 35 to 47 feet and to decrease the parking requirement from 1:3 to 1:3.3 on Parcel 2 of DP-177 Sterling Farms Commercial Community Unit Plan. The theater property is zoned "LC" Limited Commercial and is located north of 21st Street North and west of Tyler Road. The attached site plan shows the location of the theater expansion on the western portion of Parcel 2.

The Unified Zoning Code (“UZC”) requirement for onsite parking for a theater use is one parking space per three seats. The proposed expansion increases total seating capacity by 626 seats and decreases total parking provided onsite from 1,327 to 1,244 spaces, for a net loss of 83 parking spaces. The existing seat to parking space ratio is 1:2.6; this ratio would decrease to 1:3.3 if the amendment is approved and would be a 10 percent reduction from the UZC parking requirement for a theater. A 10 percent reduction in the parking requirement is within the allowable range to be granted by administrative approval by the UZC. However, the requested increase in height from 35 feet to 47 feet is beyond the 10 percent maximum increase in height that can be granted by administrative approval. Therefore, approval of a CUP amendment is required if the 47-foot height is to be granted.

DP-177 consists of three additional parcels at the corner of 21st Street North that are zoned LC and a large apartment complex on the west of Parcel 2 that is zoned “GO” General Office. The LC parcels at the corner are developed with a bank and two multi-tenant commercial buildings. The tenants include retail, personal care service, small restaurants and one large dine-in restaurant, Timberline Steakhouse. The property to the north of DP-177 is a single-family residential development, Sterling Farms. Shopping centers on property zoned LC are located on all four corners of the intersection of 21st Street North and Tyler Road. The property south of 21st Street North from Parcel 2 is zoned “MF-29” Multi-family Residential and developed with condominium patio homes, The Pines.

CASE HISTORY: The property is platted as Lots 2-4, Block 6, Sterling Farms Addition, recorded February 22, 1989 and Lots 1-2, Sterling Farms 5th Addition, recorded September 13, 1995. DP-177 was approved in 1987. Amendment #1 for an indoor amusement park (Miner Mike’s) was withdrawn after receiving recommendations for denial from MAPC and CPOs in March of 1995.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Sterling Farms Subdivision
SOUTH:	LC, MF-18	Patio homes, shopping center
EAST:	LC	Shopping Center
WEST:	GO	Apartment complex

PUBLIC SERVICES: The property is located on principal arterials. Traffic counts for 2006 on 21st Street North were approximately 30,000 vehicles per day at this intersection. The counts were approximately 9,000 on the north corner Tyler Road and 15,000 on the south corner. The proposed expansion should increase traffic somewhat. Currently, the theater has one major entrance on 21st Street North and one on Tyler Road, and two minor entrances on 21st Street North. The westernmost opening is posted by the theater as a right-turn only exit, but left turns are allowed. This access point is offset approximately 35 feet from the only entrance to the Pines and causes a conflict of overlapping left-turns into the Pines and the Warren Theater.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The commercially developed property (approximately 24 acres) exceeds the size shown for local commercial (approximately 6-10 acres), and the theater use draws its audience from a larger area of west Wichita.

Commercial Objective III.B encourages future commercial areas to: “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” The western access point from Parcel 2 onto 21st Street North conflicts with the drive opening for the residential development to the south. The greater building height impacts the apartment development primarily, but the apartment is located on property zoned GO, which reduces the protections extended to the property by abutting commercial uses. Strategy III.B.3 seeks to reduce access points along arterial streets. Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. Commercial Locational Guideline #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development

RECOMMENDATION: Based on the information available prior to the public hearings, planning staff recommends that the CUP be amended as follows:

1. The CUP shall be revised to redefine the applicant's property as a single parcel consisting of Parcels 2-4, Sterling Farms Addition and the portion of Parcel 2 contained Lots 1-2, Sterling Farms 5th Addition. No changes shall be made to the existing development rights for that portion of Parcel 2 contained in Lots 3-4, Block Sterling Farms 5th Addition and Lots 5-6 Sterling Farms Addition.
2. Building height may be increased to 47 feet for the expansion located on the western side of Lots 2-4, Block 6, Sterling Farms Addition but no closer than 200 feet to the north property line.
3. Parking may be reduced to a 1:3.3 ratio for the theater use on Lots 2-4, Block 6, Sterling Farms Addition and Lots 1-2, Sterling Farms 5th Addition.
4. The westernmost access point on 21st Street North shall be relocated to align with the drive opening south of 21st Street North or shall be limited to right-turn movements only.
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
7. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-177 consists of three additional parcels at the corner of 21st Street North that are zoned LC and a large apartment complex on the west of Parcel 2 that is zoned "GO" General Office. The LC parcels at the corner are developed with a bank and two multi-tenant commercial buildings. The tenants include retail, personal care service, small restaurants and one large dine-in restaurant, Timberline Steakhouse. The property to the north of DP-177 is a single-family residential development, Sterling Farms. Shopping centers on property zoned LC are located on all four corners of the intersection of 21st Street North and Tyler Road. The property south of 21st Street North from Parcel 2 is zoned "MF-29" Multi-family Residential and developed with condominium patio homes, The Pines.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a theater and could continue to be used as currently zoned and approved by the CUP.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendations to access and building height should protect surrounding property owners (except the apartments that are zoned GO) from adverse impacts; the parking reduction is specific only to the theater property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "local commercial." The commercially developed property (approximately 24 acres) exceeds the size shown for local commercial (approximately 6-10 acres), and the theater use draws its audience from a larger area of west Wichita. Commercial Objective III.B encourages future commercial areas to: "Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts

to other adjacent land uses.” The western access point from Parcel 2 onto 21st Street North conflicts with the drive opening for the residential development to the south. The greater building height impacts the apartment development primarily, but the apartment is located on property zoned GO, which reduces the protections extended to the property by abutting commercial uses. Strategy III.B.3 seeks to reduce access points along arterial streets. Commercial Locational Guideline #1 of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. Commercial Locational Guideline #3 recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and #4 recommends compact clusters versus extended strip development

5. Impact of the proposed development on community facilities: The westernmost opening is posted by the theater as a right-turn only exit, but left turns are allowed. This access point is offset approximately 35 feet from the only entrance to the Pines and causes a conflict of overlapping left-turns into the Pines and the Warren Theater. The proposed recommendation would mitigate this conflict.

DONNA GOLTRY, Planning Staff presented the staff report.

GOLTRY commented that residents of the Pines were present to speak about traffic issues. She stated that one of the theater entrances was slightly offset from the only entrance to the Pines, and that the staff recommendation was to align those drives or eliminate left turns. She said the applicant has suggested median construction that would allow right turns only and prohibit left turns into the theater. She referred to the petition received from the Pines residents and added that lighting was also a concern.

It was noted for the record that approximately ten years ago there was a court case involving the administrative adjustment for Miner Mikes at the same property.

Responding to a question from **ALDRICH**, **GOLTRY** clarified that a height increase above 10% can be changed by the governing body but not by administrative approval.

BRAD TEETER, SPANGENBERG PHILLIPS ARCHITECTS, 121 N. Meade said the Warren Theater has a large dinner theater with a balcony on the east side and that they would like to provide the same type of facility on the west side. He said they don't need the amount of parking required by code because it is virtually impossible to have all of the seats full at all of the theaters at one time, plus movies can be scheduled to accommodate the parking. He acknowledged the concerns of the Pines homeowners regarding traffic flow and lighting. He commented that there already was a "NO LEFT TURN" sign at the parking lot approach that is 30 feet offset from the Pines entrance/exit on 21st Street; however, some people just don't obey the sign. He said they have had discussions with traffic engineers about solving the problem with a triangular shaped median curb that would force traffic to exit to the right and enter from the right, that there would be no left turns into the theater parking lot from 21st Street. He said there would be a decrease in the amount of lighting visible from the street because they would be removing four light poles. He said all the lights along 21st Street will remain where they are. He said the building would have soft neon lights that point directly down. He said there would be less lights on the building than what is there now.

Responding to a question from **ANDERSON** concerning the construction investment, **TEETER** commented that they would be investing several million dollars in the addition of one theater and the remodel of two theaters into space large enough to add three theaters.

DANIEL F. PIERCE, 2423 BELLWOOD STREET, asked how much more additional seating would be incorporated into the facility? He asked how many new theaters and how big were the theaters going to be? He also asked how much more traffic would they bring into the area? He commented that between 3:00 – 8:00 p.m. the traffic is unbelievably bad. He said the applicant has failed to address the impact of the four-story retirement community on Tyler Road right across from the entrance/exit to the theaters. He said Tyler is just a two-lane road and that it is also difficult to get into the Dillon's at Maize and 21st Street. He said people will be making U-turns and blocking traffic at all the cross over points. He also asked if the City had fire equipment to protect a building of that height. He concluded by stating that on

Saturday and Sunday you can't find a parking space available at the theater. He asked that the MAPC look at this application in depth.

Tape 1, side 2

DARYL FILBERT, THE PINES HOMEOWNERS ASSOCIATION, said they have a major problem at this time with traffic. He said it is impossible to make a left turn out of the Pines, and added that the Pines has one entrance and one exit. He said it is particularly bad on weekends, and that they were hopeful about the suggestion of no left turn into or exiting the theater. He said a better proposal was that the current theater entrance off of 21st Street be closed entirely and a new entrance designed further to the west. He added that stoplights would be the best option. He concluded by saying that it appeared that the lighting situation has been addressed and added that they have major concerns regarding traffic problems in the future.

TEETER clarified that a total of 626 seats would be added and said they would be taking out some seating to help with the parking situation. He added that they have conducted studies during Thanksgiving and Christmas, the busiest times of the year, between the hours of 7:00 - 9:00 p.m. and that they have counted empty stalls. He said they do have some control on movie times and when movies are scheduled that will help with parking. He concluded that he did not think 47 feet in height would be a problem for the Fire Department.

ANDERSON commented that there seemed to be a lot of concern about traffic volume on 21st Street and that there were people in City Hall who could help in solving those types of problems, just not the MAPC.

MOTION: To approve based on staff recommendations.

ALDRICH moved, **GISICK** seconded the motion, and it carried (12-0).

BISHOP noted for the record that this was one of the difficulties of approving developments with one or two entrances. She said when traffic increases in the area; people cannot make left hand turns out of the developments.

9. **Case No.: CUP2007-3** – Royal 1, LLC (Gary Oborny); Robert W. Kaplan, Kaplan, McMillan and Harris Request Amendment #7 to CUP 49 to allow a nightclub on Parcel B, Tract 1.

Lot 2, Dean-Rupert Third Addition, Wichita, Sedgwick County, Kansas. Generally located East of Rock Road and South of Central (old Cinema's East building).

BACKGROUND: The applicant is seeking an amendment to the DP-49 Cobblestone Alley Commercial Community Unit Plan (CUP) that establishes the development standards on property located east of Rock Road and south of Central Avenue (314-330 North Rock Road). The applicant is seeking approval to permit a "night club in the city" on Parcel B, Tract 1. As defined in the Unified Zoning Code (UZC), "nightclub in the city" is an establishment that provides entertainment, which may include the provision of dancing and where cereal malt beverage or alcoholic liquor are offered to the public or its members, and which may or may not serve food.

Parcel B, Tract 1 is zoned "LC" Limited Commercial, but is currently restricted to the following uses by the CUP: retail businesses, bakeries, banks, barbershops, catering establishments, laundry or dry cleaning, offices, printing shops, processing of food, restaurants, shoe shop, studios, tailor shops, theaters or places of public entertainment. The property is also platted as Lot 2, Dean-Rupert Third Addition. Parcel B, Tract 1 is developed with a strip commercial building originally built in 1974 housing several retail/personal service uses.

Cobblestone Alley contains a total of 7.8 acres divided between seven parcels, including the subject tract, and is developed with a mix of residential, office, banking, restaurant, retail and utility uses. Cobblestone Alley is located on Rock Road, which is an intensely developed arterial connecting U.S. 400 with K-96

highways. The properties to the north, northwest, west and south are zoned LC, and developed with a variety of restaurant, retail and commercial uses. The land immediately east of the application area is a 184-foot wide creek, abutting a 50-foot wide street (Tara Lane), and then a developed SF-5 Single-family Residential zoned subdivision. There is an apartment building located to the northeast of the site.

Since "night club in the city" is not a listed use permitted by the CUP on Parcel B, Tract 1, the CUP needs an amendment to allow the use. Also, further north of the building where the nightclub is proposed, but within 200 feet, is an electrical substation. A portion of the substation is zoned SF-5 Single-family Residential. Nightclubs in the city are subject to UZC Supplementary Use Regulation D.6.w when located on LC zoned property that is located within 200 feet of residential zoning, and specifies additional development standards dealing with outdoor food and drink service. For this site, the SF-5 zoning is developed with a utility substation rather than a residential use.

The site appears to have enough parking spaces or the ability to provide enough spaces. Signage is to be provided per the sign ordinance. Nightclubs are allowed to be open until 2:00 a.m., which is later hours of operation than most commercial and office uses have.

CASE HISTORY: The Dean-Rupert Third Addition was recorded on May 1, 1987. DP-49 Cobblestone Alley was originally approved February 20, 1973, and has been amended five times previously.

ADJACENT ZONING AND LAND USE:

NORTH: LC, SF-5; Retail; office, restaurant, bank
SOUTH: LC; Retail office; restaurant
EAST: Un-zoned creek; SF-5; residential subdivision
WEST: LC; Grocery store, restaurants, fuel outlet

PUBLIC SERVICES: Services are available. Rock Road is a multi-lane arterial that is able to meet traffic needs.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "local commercial" uses. Local commercial areas contain concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. Typical uses might include: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal services facilities.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request to permit "night club in the city" as a permitted use in Parcel B, Tract 1, DP-49 be APPROVED subject to complying with all licensing.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties to the north, northwest, west and south are zoned LC Limited Commercial, and developed with a variety of restaurant, retail and office uses. The land immediately east of the application area is a 184-foot wide creek, then a 50-foot wide street (Tara Lane), and then a SF-5 Single-family Residential zoned subdivision. As with much of Rock Road, this section is located in an intensely developed commercial arterial strip.
2. The suitability of the subject property for the uses to which it has been restricted: The application area is currently zoned LC Limited Commercial, subject to restrictions contained in CUP 49. The site could be economically used as currently zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request will introduce a use that is not currently permitted, and that typically has hours of operation that are significantly different than most office or retail uses in the immediate area. Based upon other nightclub uses, the potential exists for nuisance type activities to be associated with a nightclub use. Staff is not aware of any other nightclub uses in the immediate area.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would add an entertainment choice to the city's nightlife and a use that is not currently present in the community unit plan. Denial would presumably be an economic hardship on the applicant in the loss of a potential tenant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Comprehensive Plan does not contain guidelines specifically for nightclubs. The plan does have objectives designed to minimize detrimental impacts on nearby residential uses, such as the 200-foot separation distance triggering a public hearing, and restricting nightclubs to more intense zoning districts.
6. Impact of the proposed development on community facilities: Rock Road is a fully developed arterial street capable of accommodating any traffic impacts generated by this proposed use. There could be an increased demand for public safety services.

JOHN SCHLEGEL, PLANNING DIRECTOR, reported that the applicant had withdrawn the case.

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10. **Case No.: CUP2007-5** – Simon Property Group, LP (owner); Law/Kingdon c/o Jeff Suchan/Jeff Best (agent) Request DP-12 Kellogg Mall Community Unit Plan (a/k/a Towne East) Amendment #12 to allow 460 square feet of sign face and allow an electronic reader board not to exceed 150 square feet along Kellogg Drive on property described as;

Commencing at the Southwest corner of Lot 4, Kellogg Mall Addition, thence North 89 degrees 24' 09" East a distance of 362.00 feet to the Point of Beginning; thence North 0 degrees 24' 25" West 30 feet; thence N 89 degrees 24' 09" East 30 feet; thence S 0 degrees 24' 25" West 30 feet; thence N 89 degrees 24' 09" East 30 feet to the Point of Beginning. Generally located North of Kellogg and west of Rock Road.

BACKGROUND: The applicant requests Amendment #12 to DP-12 Kellogg Mall Commercial Community Unit Plan to allow a single sign that is 460 square feet in sign face area with an electronic reader board not to exceed 150 square feet on Parcel No. 1a. The sign would be positioned on the north side of Kellogg Drive approximately one-sixth mile west of Rock Road, serving as the main shopping center identification sign for the Towne East Square. The property is zoned "LC" Limited Commercial.

The proposed sign replaces a previous sign located in the same vicinity along Kellogg Drive but that had to be removed for the reconstruction of Kellogg as a freeway. The previous sign was approximately 340 square feet in sign face area.

DP-12 was developed in the early 1970s as a large regional shopping center, Towne East Square. Today, it has four major anchor tenants and a two-level shopping mall with many other tenants and a gross leasable area of over 1,100,000 square feet. It occupies the land from Rock Road to Armour Drive and from Kellogg to Douglas Avenue. The major tenants in the center (listed alphabetically) are Dillard's, JC Penney, Sears and Von Maur, the most recent anchor that was opened in 2002 and replaced a previous anchor. In addition to Towne East Square, Target and Omni Office Park are located west of Armour Drive and are part of the CUP. Other uses located along the perimeter of the site include a bank, six restaurant pad sites, two auto/tire/battery stores, a vacant motel, and a vacant multi-screen cinema. A larger auto dealership was part of the community unit plan until creation of PUD #16 Rusty Eck PUD in 2003.

Surrounding uses along the Kellogg corridor (US-400) include other auto dealerships, shopping centers, freestanding restaurants and two high-rise motels, mostly on property zoned LC.

CASE HISTORY: The property is platted as Kellogg Mall Addition, recorded June 18, 1973. DP-12 was approved in 1966; it was originally known as Rockwood South Community Unit Plan, but the name was changed to Kellogg Mall Commercial CUP. The most recent amendment (Amendment #11 approved January 9, 1996) added a half-acre tract on the southwest corner to former Parcel 9, now part of PUD #16. An adjustment in 2000 allowed revamping the parking and traffic patterns to facilitate construction of

Von Maur department store. Other adjustments since 2000 include creating separate parcels for two existing restaurants (requested for financing purposes related to new lessees), and allowing an auto rental agency to be housed within the Sears Automotive use. The most recent adjustment realigned parcels and setbacks to conform to the new CUP boundaries subsequent to acquisition of right-of-way for the Kellogg freeway construction, to relocate the former Old Chicago restaurant to a new pad site west of the main entrance, to confine the major sign for Towne East Square to a small parcel along Kellogg Drive and increase its height by 10 percent from the previous height of 55 feet to 60 feet, to reconfigure the Parcel 4 boundaries (former Pizza Hut Café) to the new site layout for a new restaurant, and to remove the parcels now part of PUD #16.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Towne East Square
SOUTH:	LC	Hotel, auto dealership
EAST:	LC	Towne East Square, Firestone, restaurants
WEST:	LC	Restaurant, vacant tract, auto dealership, Target

PUBLIC SERVICES: The proposed amendment pertains only to signage regulations and has no significant impact on public services.

CONFORMANCE TO PLANS/POLICIES: Currently, the City of Wichita Sign Code limits sign face area to 300 square feet per sign. The size requested of 460 square feet exceeds the current limit of 300 square feet and is an increase over the previous sign it replaces. The existing general provisions of the CUP are silent on subject of electronic message signs, so presumably an electronic message sign would be permitted.

RECOMMENDATION: Allowing a larger sign has been approved by previous governing body action in at least three instances, one of which is on the adjoining PUD #16. In that situation, the PUD allowed an off-site sign with a maximum sign face area of 762 square feet and an onsite arbitron with a maximum sign face area of 400 square feet; both could be 40 feet in height. A third sign that exceeded normal Sign Code allowances was a sign with a maximum size of 300 square feet (the customary limit per Sign Code) but at 80 feet in height. Based on the proximity of this sign request to those approved by PUD #16, plus the reliance of Towne East Square on one sign with greater height and size rather than a multiplicity of smaller signs at closer spacing, and the information available prior to the public hearings, planning staff recommends that the CUP be amended as follows:

- 1) General Provision 1 shall be revised to state: "Signs shall be in accordance to the Wichita Sign Code except as otherwise provided in the general provisions and parcel descriptions. No off-site, billboards or portable signs shall be permitted. Electronic message signs that are classified as animated, flashing or moving by the Wichita Sign Code or create the illusion of movement shall be restricted to 30 percent of power after dusk. Total number of freestanding signs on Kellogg Drive shall be limited to five (5), spaced a minimum of 150 feet apart, except that this spacing shall be 250 feet apart for signs adjacent to a sign in excess of 300 square feet.
- 2) Parcel No. 1a shall be permitted one sign with a maximum size of 460 square feet and otherwise in compliance with Sign Code requirements.
- 3) Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
- 4) The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- 5) The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: DP-12 was developed in the early 1970s as a large regional shopping center, Towne East Square. Today, it has four major anchor tenants and a two-level shopping mall with many other tenants and a gross leasable area of over 1,100,000 square feet. It occupies the land from Rock Road to Armour Drive and from Kellogg to Douglas Avenue. The major tenants in the center (listed alphabetically) are Dillard's, JC Penney, Sears and Von Maur, the most recent anchor that was opened in 2002 and replaced a previous anchor. In addition to Towne East Square, Target and Omni Office Park are located west of Armour Drive and are part of the CUP. Other uses located along the perimeter of the site include a bank, six restaurant pad sites, two auto/tire/battery stores, a vacant motel, and a vacant multi-screen cinema. A larger auto dealership was part of the community unit plan until creation of PUD #16 Rusty Eck PUD in 2003. Surrounding uses along the Kellogg corridor (US-400) include other auto dealerships, shopping centers, freestanding restaurants and two high-rise motels, mostly on property zoned LC.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial, and is currently developed with a regional shopping mall. The proposed changes to the signage regulations allow a single sign to be used to advertise the main shopping mall instead of a multiplicity of signs.
5. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed recommendation to limit the intensity at night will keep this sign from being brighter than the electronic signs already nearby but will add to the already-proliferating electronic moving signs in the vicinity. The presence of large signs on the next property to the west should override the influence of this sign.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Currently, the City of Wichita Sign Code limits sign face area to 300 square feet per sign. The size requested of 460 square feet exceeds the current limit of 300 square feet and is an increase over the previous sign it replaces. The existing general provisions of the CUP are silent on subject of electronic message signs, so presumably an electronic message sign would be permitted.
5. Impact of the proposed development on community facilities: Staff has heard comments from the community alleging that moving, flashing signs may confuse motorists.

DONNA GOLTRY, Planning Staff presented the staff report.

MOTION: To approve subject to staff recommendations.

MCKAY moved, **WARNER** seconded the motion, and it carried (12-0).

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11. **Case No.: DR2005-08** - Request Adoption of the Arena Neighborhood Redevelopment Plan as an element of the Wichita-Sedgwick County Comprehensive Plan on property described as;

Generally located Boundaries are Kellogg on the south, ½ block north of Douglas Street on the north, Main Street on the west, and the Central Rail Corridor on the east.

Background: The City has partnered with Sedgwick County and the Wichita Downtown Development Corporation in formulating an Arena Neighborhood Redevelopment Plan. The Plan area is bounded by the central rail corridor on the east, Kellogg on the south, Main Street on the west and extends ½ block north of Douglas.

On June 21, 2005, the City Council approved the selection of Gould Evans to undertake the preparation of this Plan. A 19-member steering committee representing key area and city stakeholders (including City

and County elected officials and a representative of the MAPC) was appointed by the City Manager to oversee the development of the Plan. A 13 member Support Team comprised of 12 City and one County administrative support staff was also created to provide technical support to the development of the Plan.

Over the last year and a half, the consultant has worked closely with the steering committee, area stakeholders, residents, landowners, business representatives and the community at-large to build consensus in the development of this Plan. To-date, there have been a total of 18 Arena Neighborhood Redevelopment Plan Steering Committee meetings, 5 City Council workshop presentations, 4 public information meetings (including a two-day design charrette), 3 presentations to the City's Design Council, 3 briefings to the Advance Plans Committee of MAPC, 2 workshop presentations to the Board of County Commissioners, one presentation to the Historic Preservation Board, presentations to the six City District Advisory Boards, and 660 responses from a community-wide survey done by the consultant.

At its meeting of February 15, 2007, the City's Design Council voted unanimously to support the *Arena Neighborhood Redevelopment Plan, March 2007*.

Elements of the draft Arena Neighborhood Redevelopment Plan:

1. Vision - The draft plan contains a vision that this portion of downtown will become a vibrant, redeveloped urban place where people want to live, work and visit due to its proximity to existing and proposed downtown assets. Guiding principles for this Plan are as follows:

- Build on existing linkages and assets
- Encourage private investment that creates a special urban place
- Acknowledge distinct districts that exist within the Plan area
- Manage parking and enhance mobility
- Commit to implementation to maximize return on public investment
- Demand quality development
- Adjust the Plan to market conditions

2. The Districts - The Plan builds upon the following four distinct districts that comprise the Plan area:

Douglas Street Corridor District - A highly intense business corridor, primarily office and support commercial uses with upper level residential opportunities.

English/William Street District - An urban mixed-use district of primarily commercial and office uses with supporting public and residential uses.

Broadway Neighborhood District - An urban residential environment with support commercial opportunities serving area residents and Kellogg users.

Commerce Street Arts District - A unique mixed-use district where artists have opportunities to live-work.

3. Parking and Mobility - The plan has four key objectives related to this element:

1. *Improve vehicular circulation and convenience* - The Plan calls for the phased conversion of one-way streets to two-way streets and designing area streets by major function (balanced, pedestrian or plaza).
2. *Create and implement a Downtown parking master plan* - The Plan promotes the multiple use of parking facilities that are priced accordingly, and giving people better parking information and choices.
3. *Use transit to move people from parking to destination, and from place to place*. The Plan promotes the increased use of trolleys to create an enhanced circulator system. Transit would have to be scheduled to link parking areas to event centers.
4. *Create better linkages and pathways through Downtown*. The Plan advocates the creation of easy-to-recognize, safe and interesting pedestrian pathways.

4. Design Framework - In order to create a minimum level of quality and certainty to support future redevelopment investments, the Plan contains recommended design standards that promote urban design appropriate for each of the four Districts, as well as the street rights-of way with them.

5. Implementation - This area has challenges and complexities like no other in the city. The Plan recognizes that a dedicated implementation agency or entity is key to making this Plan a reality. The City or a City-approved catalytic development entity will have to oversee Plan implementations efforts and

make strategic public investments that partner with and support private development. The City will have to use its assets (e.g. Allis Hotel site) in the Plan area to attract initial redevelopment.

Prior to adopting the Arena Neighborhood Redevelopment Plan as an element of the Wichita-Sedgwick County Comprehensive Plan, Kansas statutes require the MAPC to hold a public hearing.

Recommended Action: Receive formal public comment and consider a resolution adopting the *Arena Neighborhood Redevelopment Plan, March 2007* as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

DAVE BARBER, Planning Staff presented the staff report.

ALDRICH asked whether a redevelopment authority would be established to help pay for funding the project, and if it was similar or the same to what was currently being proposed by the City Manager.

BARBER commented that some entity would be established to oversee implementation of the plan and partner with the City and the private sector. He said public infrastructure costs were estimated at \$32 million for public street improvements. He said there would also be additional costs for structured parking. He said whether the City, the private sector or partnerships would pay for those costs has yet to be determined, but added that there would be substantial City costs for public right of way improvements.

HENTZEN clarified that the MAPC did not have the authority to establish a redevelopment authority for this plan or anything else.

BARBER said not directly. He said one of the plan recommendations was that an entity be established; however, the MAPC was not making that commitment by adopting the resolution. He clarified that it was up to the City Council to establish an authority.

MITCHELL asked how much of the \$32 million referred to on the chart on page 106 was currently budgeted in the Capital Improvement Program (CIP)?

BARBER said no money was budgeted at this time; however, he added that the CIP is reviewed and adjusted on an annual basis in context with other City priorities.

JOHN SCHLEGEL explained that there were other funding mechanisms other than CIP monies. He said there might be Federal and/or State funds, Tax Increment Financing (TIF) or general obligation monies.

MITCHELL asked if there was a TIF district based on this plan?

BARBER said City staff was working on that now.

MITCHELL commented then the answer to his question was "no". He said the final cost might end up being three times the estimated amount. He said he felt like they were buying a "pig in a poke."

SCHLEGEL explained that the MAPC was not being asked to endorse any type of funding mechanism. He said they were being asked to adopt a plan for redevelopment of this area. He said street improvement plan doesn't endorse any one particular funding mechanism.

MITCHELL commented that as time goes by, the estimate would go up.

HENTZEN said he would prefer that staff apply some intelligent guesses on costs rather than not having any idea. He said an estimate was better than nothing.

Responding to a question from **BISHOP** concerning diagonal parking along Douglas from Main to Washington, **BARBER** responded that this plan does not contain that recommendation.

BISHOP also asked if this plan had been coordinated with the WAMPO Plan.

BARBER explained that this plan would not compromise or preclude what has been included in the WAMPO plan.

MCKAY commented on the map on page 21 and how this plan seemed to encompass the whole downtown area, even though it was called the Arena Plan. There was discussion concerning "arena neighborhood" and how to define "neighborhood".

SCHLEGEL commented that this plan was developed in response to an assignment from the City Council who established the geographic area for the Plan. He commented that some of the areas of downtown do overlap into arena plan area.

BARBER commented that the arena neighborhood boundaries were set by the City Council.

DUNLAP commented that the City would not be doing this study and creating this plan if there was no arena. He asked how much financial support would be received from Sedgwick County on this.

RON HOLT, ASSISTANT COUNTY MANAGER reminded the MAPC that the reason the County was doing an arena downtown was because they were solicited by elected officials and business leaders of Wichita not to do the renovation of the Kansas Coliseum, but instead develop an arena downtown to help with downtown redevelopment in concert with City and business leaders. He said by countywide public vote, it was decided that the County would own and operate the facility and that it would be paid for with a 1% sales tax. He said they are currently working on a parking plan and that should be completed within the next few months. He concluded by saying that the whole idea of the arena downtown was to help with downtown revitalization. He referred MAPC members to the chart on page 111, which indicated that there would be a significant amount of private funding towards the plan. He said estimated investment return would be almost \$4.50 cents for each public \$1.00 invested. He said he would like to keep the public investment in perspective and context and that it be used as an incentive to help get private investment into the arena area.

Responding to a question from **BISHOP** concerning percentage of green space, **BARBER** said the target for open space was 5-10% net of the developable area.

Responding to a question from **ALDRICH** concerning diagonal parking, increased traffic, and why diagonal parking was removed from the plan, **BARBER** indicated that they had received opposition from the City Council relating to traffic congestion on Douglas Street. He commented that although diagonal parking was not included in the final plan draft, it could always be revisited in the future.

ANDERSON asked why the County couldn't issue bonds for the streetscape and right of way improvements since it was a County project.

BARBER explained that it was the City's responsibility to maintain streets.

ANDERSON asked about using the 1% sales tax money.

SCHLEGEL commented that right now, there is no authorization to use the 1% sales tax for anything other than facility construction.

CLAY BASTIAN, FIDELITY BANK, said as Chairman of the Arena Neighborhood Redevelopment Plan Steering Committee and the Wichita Downtown Development Corporation that both groups felt the plan was exciting and that it was the right thing to do. He added that the Steering Committee and WDDC was in unanimous support of diagonal parking, it was needed and that it was cheap compared to the cost of building a parking structure.

MOTION: To adopt the *Arena Neighborhood Redevelopment Plan, March 2007* resolution as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

HILLMAN moved, **WARNER** seconded the motion, and it carried (10-2).

ALDRICH and MITCHELL – No.

ANDERSON said he believed the item deserved a lot of comment because both the City and the County were spending millions and millions of dollars on capital improvement for specific projects that trigger good development and good activity. He said he has never seen a plan that ever came out as it was originally planned when started. He said he thought the MAPC should approve the plan.

The Metropolitan Area Planning Department informally adjourned at 2:50 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)